

DAVID BURCHARD
CHAPTER 13 TRUSTEE
P.O. BOX 8059
FOSTER CITY, CA 94404
(650) 345-7801 FAX (650) 345-1514
(707) 544-5500 FAX (707) 544-0475

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re:

MARY JENNINGS
15 MUIRFIELD RD.
HALF MOON BAY, CA 94019

Debtor(s)

Chapter 13
Case No: 19-30861 DM
Date: November 20, 2019
Time: 01:10 PM
Cttrm: 450 GOLDEN GATE AVENUE
16th FLOOR - COURTROOM #17
SAN FRANCISCO, CA 94102-

**MOTION OF CHAPTER 13 TRUSTEE, DAVID BURCHARD,
TO DISMISS CASE PRIOR TO CONFIRMATION**

TO: THE ABOVE-NAMED DEBTOR(S) AND TO DEBTOR(S)' ATTORNEY OF RECORD HEREIN:

The Chapter 13 Trustee, DAVID BURCHARD, moves the Court for an order, dismissing this case for cause(s) for the reasons set forth below.

1. This Court has jurisdiction over this matter pursuant to Federal Rules of Bankruptcy Procedure 9013 and 9014, and Bankruptcy Local Rules 9013-1 and 9014-1. This is a core proceeding under 28 U.S.C. § 157(b)(2)(A).
2. This Motion is based upon all documents and records on file, together with this Motion, Declaration and any such additional documents, records and evidence which may be presented.
3. Debtor(s) filed for bankruptcy under Chapter 13 on 08/14/2019.
4. This motion for dismissal is made for cause pursuant to:

11 U.S.C. § 1307(c)(1) as there is unreasonable delay that is prejudicial to creditors.
11 U.S.C. § 1307(c)(4) as Debtor(s) failed to make timely payments to the Trustee. As of the date of this motion, \$4,800.00 is in default under the Chapter 13 Plan.

5. The cause to dismiss this case exists as it is in the best interests of creditors and the bankruptcy estate. The Trustee therefore requests the Court enter an order dismissing this case.

If you wish to oppose dismissal of this Chapter 13 case, you or your attorney must file a timely opposition to this motion no later than fourteen (14) days before the hearing set forth in the accompanying Notice of Motion. You or your attorney must also appear at the hearing date listed in the notice and present argument in opposition to this motion.

DATED: October 9, 2019

DAVID BURCHARD
DAVID BURCHARD, Chapter 13 Trustee

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**DECLARATION IN SUPPORT OF CHAPTER 13 TRUSTEE,
DAVID BURCHARD'S, MOTION TO DISMISS CASE
PRIOR TO CONFIRMATION**

I am the custodian and/or keeper of the business records referenced herein and, as such, I am qualified to certify the authenticity thereof. Additionally, I have personal knowledge of the matters stated in the Declaration. If called upon as a witness, I could and would competently testify to the facts contained herein.

After reviewing the books, records and files of the above-referenced Debtor(s), I make the following Declarations:

1. Debtor(s) filed the instant bankruptcy petition on 08/14/2019. There is unreasonable delay towards plan confirmation that is prejudicial to creditors.
2. As of the date hereof, the following fact(s) exists as cause for dismissal:

 X Failure to make required payments to the Trustee. \$4,800.00 is in default under Ch. 13 Plan.
 Failure to attend Section 341 Meeting of Creditors scheduled on
 X Failure to respond to Trustee's requests – see attachment "A".

I declare under penalty of perjury that the foregoing is true and correct and that this Declaration was executed on October 9, 2019 in Foster City, California.

Dated: October 9, 2019

DAVID BURCHARD

DAVID BURCHARD, Chapter 13 Trustee

CERTIFICATE OF SERVICE

I am over the age of 18 years and not a party to this action. I am employed by the Trustee whose business address is 1065 E. Hillsdale Blvd., Suite #200, Foster City, CA. On the date set forth below, I served a true and correct copy of the **Motion of Chapter 13 Trustee, David Burchard, to Dismiss Case Prior to Confirmation, the Declaration in Support of Chapter 13 Trustee, David Burchard's Motion to Dismiss Case Prior to Confirmation** and this **Certificate of Service**, on the persons listed below by following our ordinary business practice for service, which is either deposited in the ordinary course of business with the U.S. Postal Service by first class mail or served by electronic transmission from the Court, if applicable. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

MARY JENNINGS
15 MUIRFIELD RD.
HALF MOON BAY, CA 94019

The following recipients have been served via Court's Notice of Electronic Filing:

THOMAS A MOORE
tomamoore@hotmail.com

Dated: October 9, 2019

ROSA GARCIA

ROSA GARCIA

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**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA**

In re:

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HALF MOON BAY, CA 94019

Case No.: 19-30861 DM
Chapter 13

ATTACHMENT "A"

Debtor(s)

The Trustee made the following requests at least 30 days prior to the filing date of the instant motion :

1. The debtor's plan was filed after the Notice of Bankruptcy was filed and has not been served on all creditors. Trustee requested the plan be served on all creditors with 28 days' notice, and a certificate of service evidencing service of the plan be filed with the Court. The debtor has failed to file a certificate of service evidencing service of the plan.
2. Per Section 3.07 of the debtor's plan, this is a conduit plan; however, the debtor has not provided the required Class 1 Checklist (Form NDC 1-3) and the Authorization to Release Information to Trustee Regarding Secured Claims Being Paid by the Trustee (Form NDC 1-4). Trustee requested these forms be provided within 14 days of the filing of the petition. The debtor has failed to provide these documents.
3. Trustee requested payment advices for the sixty (60) days prior to the filing of the bankruptcy, or in the alternative if the payment advices are unavailable, a declaration which sets forth the reasons that the required information is unavailable and provides an estimate of the payments received in the sixty (60) days prior to filing. The debtor has failed to provide the requested payment advices and has not provided a declaration that details why payment advices cannot be provided.
4. Trustee requested a signed copy of the debtor's 2018 filed federal income tax return. The debtor has failed to provide the requested document.